

Vermont Environmental Report

Pyramid Mall: An End May Be In Sight

On July 14, 1977, the Williston Planning Commission voted 6 - 1 to approve a subdivision application for a proposed Pyramid Mall. This approval sent the Pyramid application into Act 250 hearings before the District Environmental Commission No. 4.

The proposed mall would be a \$10 million, 80-store enclosed shopping center on 67 acres of land. It is the largest commercial development ever to come under Act 250 review. It would be built at the intersection of Routes 2 and 2A in Williston, a town of 4,400 people, six miles east of Burlington and adjacent to Exit 12 of Interstate 89.

Since last August, VNRC Staff Attorney, Darby Bradley, has been following the Pyramid hearings before the District Environmental Commission. He has been providing legal advice to the Williston Committee for Responsible Growth that is opposing the Mall.

In the following report, Bradley speculates for the first time on the possible outcome of the Pyramid application.

With the first signs of spring have come the first signs that suggest that the proposed Pyramid Mall may not be built after all. It is still far too early to make a definite pronouncement. The Pyramid Company continues to pursue the necessary approvals with apparent confidence in the final result. But after months of hearings in which everything seemed to be going Pyramid's way, some difficult obstacles now have emerged that could block the development.

(1) Town versus Regional Plan

Hours and hours of testimony and hundreds of pages of legal briefs have been devoted to the question of whether the Williston Town Plan is a valid document. The issue is important. If the Williston Town Plan was not "duly adopted," Pyramid's application for development will be required under Act 250 to conform to the Chittenden County Regional Plan. The proposed Pyramid Mall conflicts with the Regional Plan on several points.

Although the District Environmental Commission has not yet made a definitive ruling on the validity of Williston's adoption procedures, and therefore the validity of Williston's Town Plan, the Commission did decide that the Regional Plan was relevant evidence, and

asked that it be submitted. This action perhaps indicates the direction that the Commission is leaning towards on this issue.

(2) Traffic Impact

In a presentation using computer models, two witnesses for the Chittenden County Regional Planning Commission showed that there will be substantial adverse impacts on the county highway network if traffic from a Pyramid Mall is added to expected future traffic volumes. These conclusions were hotly disputed by Pyramid representatives.

The two witnesses went on to say that a proposed Pyramid Mall would result in unsafe traffic conditions at the interchange of Interstate 89 and Route 2A in Williston. It now appears that if a Pyramid Mall was built, a number of intersections would have to be upgraded and that a partial clover-leaf would have to be built at Exit 12 on Interstate 89. These improvements could cost as much as \$1 - \$3 million.

In a related development, the State Transportation

cont...

cont...

Agency (which must issue a "highway access permit" before the proposed Mall can open) has decided that all necessary highway improvements must be built before the permit will be granted. Pyramid has two choices: either to pay for these improvements itself at an enormous cost but at a saving in time, or to wait until the State builds them. Since state highway investments must be made in accordance with a 10-year transportation plan, it could take years before these improvements work their way to the top of the State's priority list, if indeed they ever come to the top of the list at all.

(3) Air Pollution

Air quality officials in Montpelier are recommending that the Pyramid Company be denied an air quality "certificate of compliance." This certifies that the development meets Vermont's air quality laws. Officials cite unacceptably high concentrations of carbon monoxide that would be particularly acute at the Interstate 89 ramps, at Tafts Corners, at Industrial Drive in Williston and at Five Corners in Essex Junction. The denial of an air quality certificate of compliance would be a blow to Pyramid's chances of getting an Act 250 permit. Criterion No. 1 of Act 250 states that a proposed development must not result in "undue air pollution."

(4) Fiscal Impacts on Neighboring Communities

The first testimony on the economic impacts of the proposed Mall on neighboring communities was heard during February.

On February 28, a retail Market analyst from Washington, D.C. presented evidence on the effects that a Pyramid Mall would have on the retail sales structure of Chittenden County. The market analyst concluded that if the Mall was built, the City of Burlington could expect to lose as much as \$21 million in retail sales. Retail sales in Williston, on the other hand, would increase to \$44 million.

Even though the effect of a proposed development on an area's retail merchants is not directly relevant to the Act 250 hearing process, the conclusions of the market study are important. These conclusions lay the foundation for subsequent testimony by other experts on the fiscal impact of the Mall on the tax revenues to state and local governments. This is an issue that must be considered under Criterion No. 9 of Act 250.

(5) Stormwater

During the week of March 6, VNRC, the Lake Champlain Committee and the Williston Committee for Responsible Growth presented evidence on the effects of stormwater runoff from the proposed Pyramid Mall.

An expert witness, called by the three environmental groups, testified that stormwater runoff from a shopping mall would be highly polluted by lead, zinc and oxygen-demanding substances. When the stormwater is added to the discharges from municipal treatment plants located along the lower Winooski River, dissolved oxygen (D.O.) levels would fall below minimum standards during low-flow conditions.

While the stormwater issue is not expected to stop the Mall (since Pyramid can treat its stormwater to reach acceptable levels prior to discharge), it does raise questions about the State's stormwater management policies and the magnitude of growth that can ultimately occur in communities bordering the lower Winooski River.

(6) Concluding Remarks

Many months ago the Pyramid Company announced that it would start construction on March 20, 1978, providing that it had all of its permits in hand.

March 20, 1978 will come and go and there will be no construction.

The Pyramid case appears to be headed for an appeal, and probably to the courts. Whether the Mall is ultimately built or defeated, the market forces that attracted Pyramid Company to Vermont continue to exist. Unless the lessons of the Pyramid case are learned, the same problems and issues will be raised again.

"Will the parties who participated in the Act 250 hearings in the Pyramid Mall case be there a second time with the same vigor should another challenge be raised?"

This is very much an open question. Given the thousands of dollars of consultant fees, hundreds of hours of hearings, thousands of hours that citizens and state officials have borrowed from other obligations, I doubt society's ability to confront a similar application through the Act 250 process a second time around.

It is for this reason that I am going to devote an article in the April **Vermont Environmental Report** to the lessons that may be drawn from the Pyramid Case.

Darby Bradley
VNRC Staff Attorney

**NATIONAL
WILDLIFE
WEEK
MARCH 19-25, 1978**